

STATE PROPERTIES COMMITTEE

Tuesday, September 28, 2004

The meeting of the State Properties Committee was called to order at 10:07 A.M. by Chairman Jerome F. Williams. Other members present were, Genevieve Allaire Johnson, Esquire, representing the Department of Attorney General, Mr. Robert Griffith, representing the Department of Administration, and Mr. Thomas Barry, Public Member. Also present were, Ms Maureen McMahon and Messrs. Paul Carcieri, Robert Jackson, William McCarthy, Daniel Clarke, Michael Mitchell, Esquire, and Rick Kalunian, from the Department of Transportation; Ms. Grace Smith from the Department of Environmental Management; Mr. Robert Christie, from the Department of Labor and Training; and, Mr. Jerome Sidio, from the University of Rhode Island.

The Minutes of the meeting held on September 14, 2004 were approved.

1. OLD BUSINESS
2. NEW BUSINESS – Miscellaneous - The next meeting of the State Properties Committee is scheduled to be held on Tuesday, October 12, 2004 **at 11:00 A.M.**

ITEM A – OFFICE OF HIGHER EDUCATION – URI – A request was made by the Office of Higher Education (OHE) for approval of a one - year extension to two land leases to University of Rhode Island property.

The Office of Higher Education was requesting that the Committee grant one year extensions on two leased properties that the University has on ten parcels of land that total 212 acres that are in turf farming. The University has three primary reasons for the request. The first is the late date for the award of the agricultural leases. The leases expire November 30, 2004, but due to the time of the agricultural rotation of the planting of crops, there is not sufficient time to get leases awarded and new farmers to take care of

the turf fields or to plant new crops. The second reason is that the University has several changes to be made to the Leases. One change would be for a ten year lease as opposed to a three (3) year lease and the University is looking at a five (5) year extension as opposed to a three (3) year extension. The University has some major capitol improvements that it is looking to be made in the property as part of the new leases. These changes all impact the farmers. The University is looking for irrigation systems to be established for the fields. These are capitol investments that do require a ten (10) year time frame. With these changes, it requires an extensive period of explanation going out to the potential bidders on what is going to be required. In addition, the University is looking at all University properties and how they can best support the President's strategic plan. There are a number of initiatives under way at the University. The University has several options for land use that include new enterprises that enhance curriculum. These options are to be reviewed in concert with the overall strategic plan. These enterprises could result in a shift of use between specific parcels of land, including some of those designated for agriculture. Because of the nature of the enterprise functions, the University is uncertain as to their economic feasibility and needs a number of additional months to evaluate the financial possibilities that exist with some of these enterprises. Those enterprises could use some of the land that the University normally includes in these leases and the University needs the additional time to make that evaluation. Discussion took place regarding the amount of revenue received.

Mr. Griffith inquired about the capitol improvements. On one lease the development of an irrigation pond is anticipated. Presently water is being withdrawn from a stream, which the Department of Environmental Management is not in favor of. A requirement is being put in the lease for the development of a pond of sufficient size

that the irrigation could be drawn from this pond. Also being required is that some additional irrigation lines be put in. Grants are available from the Department of Agriculture that will pay for 75% of the investment. The water is part of the Lease and is from the brook that runs through the area. It is part of the watershed that provides the water to the University in South Kingstown. Mr. Griffith stated it would be prudent to touch base with the individual who is responsible for developing The Water Supply System Management Plan for the University. He went on to say that the State has seen a recent spike in withdrawals at the University and additional irrigation on those fields would compete with the University itself and the Town of South Kingstown from the same source. Mr. Griffith said it would be a measure of good stewardship if the University could meter those fields, if for no other purpose than for data collection, both in terms of how much and when water is withdrawn from the aquifer and drawn on the fields.

Mr. Tomas Barry inquired about what kind of revenue is derived from farming and selling. The University will supply that information when it returns to the Committee.

The Chair, Mr. Williams stated that the State is always enthusiastic about State land being used for purposes such as this, but also wants to make certain that the State gets market rents for the property that is being leased.

Additional discussion took place about the water used. Mr. Griffith stated that we need to spend some time trying to determine what the value of the water is when we take into consideration what the lease price might in fact be. Discussion took place. Mr. Griffith also stated, he would also like to see some consideration of the metering of the irrigation pond and language regarding options of the University to curtail water use and

perhaps a clause that allows the University to start charging for water at some point during the ten (10) year period, or at least the right to review that during the ten (10) year period.

The Chair, Mr. Williams stated it would make sense for the University to come back to the Committee before it goes out to bid and outline what is included in the RFP. This would allow for further discussion and then the University could move forward with the RFP. The Chair suggested that some time in January or February, the University come before the Committee with the outline of what the RFP will be. Mr. Barry added that he would include that they bring the numbers of what kind of profit is derived.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Office of Higher Education (OHE)) for approval of a one - year extension for two land leases to University of Rhode Island property.

Passed Unanimously

ITEM B – DEPARTMENT OF LABOR AND TRAINING – A request was made by the Department for approval and signatures on License Agreement with the Rotary Club of Woonsocket for use of the Department's office parking lot on Pond Street, Woonsocket on October 9, 10 and 11.

The Rotary Club of Woonsocket will be holding their Autumnfest 2004. They have requested the use of the parking area at the Woonsocket Office of the Department of Labor and Training located at 217-219 Pond Street for the parking of vehicles for their members and volunteers who work at the Autumnfest which will be held over the Columbus Day Weekend. There is no fee for this use.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for approval of the use of the Department's office parking lot

on Pond Street, Woonsocket by the Rotary Club of Woonsocket for the Autumnfest 2004 to be held on October 9, 10 and 11.

Passed Unanimously

ITEM C - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT – A request was made by the Department for approval and signatures on a License Agreement for the Autumnfest Celebration at World War II Memorial State Park in Woonsocket over Columbus Day weekend.

This is the annual License Agreement for the utilization of World War II Memorial State Park in Woonsocket for the Columbus Day weekend Autumnfest Celebration. This is the 26th Anniversary of Autumnfest.

A Motion was made by Mr. Griffith and seconded by Ms. Allaire Johnson to approve the request of the Department for approval and signatures on a License Agreement for the Autumnfest Celebration at World War II Memorial State Park in Woonsocket over Columbus Day weekend.

Passed Unanimously

ITEM D - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT – A request was made by the Department for approval and signatures on a License Agreement with the Town of Westerly for a fireworks display to be held at Misquamicut State Beach, October 9, 2004, with a raindate of October 10, 2004.

This is a request for the use of the Misquamicut State Beach over the Columbus Day weekend. The Town of Westerly and the Misquamicut Businessmen's Association would like to utilize the property for a fireworks display on October 9, with a raindate of October 10.

A motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for approval and signatures on a License Agreement with the Town of Westerly for a fireworks display to be held at Misquamicut State Beach, October 9, 2004, with a raindate of October 10, 2004.

Passed Unanimously

ITEM E- DEPARTMENT OF ENVIRONMENTAL MANAGEMENT – A request was made by the Department for approval and signatures on Temporary Easement Agreement with the Echo Lake Water District over 4,320 square feet of land in Glocester.

This Temporary Easement Agreement is for a temporary easement to install a 6” test well to explore options for providing water resources to residents in the area. The area consists of 4,320 square feet. The residents have been receiving water from a private water system owned and operated by one individual who has advised the residents that he will be ending that. The residents received Legislative approval and formed the Echo Lake Water District for the purpose of finding a new water system. They will drill through the bedrock to see if there is actual water there, and see if it could be used for a water supply. In the event that there is a water supply, the Echo Lake Water District will have to come back to the Department for approval of a permanent easement.

A motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for approval and signatures on Temporary Easement Agreement with the Echo Lake Water District over 4,320 square feet of land in Glocester.

Passed Unanimously

ITEM F - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT – A request was made by the Department for approval and signatures on a Deed to

Development Rights with the Town of Warren and the Agricultural Land Preservation Commission for the purchase of development rights to land on Barton Avenue, Warren.

The Town of Warren has purchased the development rights to the 46 acre parcel on Barton Avenue in Warren. They were awarded an Open Space Grant from the Department in November, 2002 for 50% of the funding, and the Agricultural Land Preservation Commission has granted \$100,000.00 towards the acquisition. The Town purchased the development rights for \$550,000.00 and the appraised value is \$660,000.00. The local grant allows for 50% of that funding which is the \$330,000.00 grant that was awarded to the Town. The State is contributing \$430,000.00 for the purchase of the development rights. The property contains agricultural fields, forest, open water and freshwater wetlands that support a variety of wildlife.

A Motion was made by Mr. Barry and seconded by Ms. Allaire-Johnson to approve the request of the Department for approval and signatures on the Deed to Development Rights with the Town of Warren and the Agricultural Land Preservation Commission for the purchase of development rights to land on Barton Avenue, Warren.

Passed Unanimously

ITEM G - DEPARTMENT OF TRANSPORTATION - Requests approval and signatures on Deeds for Plats 2642 and 2643 and Settlement Agreement in conjunction with Condemnation Plat 2594, Providence, with USGen New England, Inc. for the 195 Relocation Project.

The Department was seeking approval and signatures on a Quit-Claim Deed from USGEN, New England, Inc. for Parcel 4A, State Highway Plat No. 2642, Deed of Easement from USGEN New England, Inc., for a four year temporary easement for Parcel 4B State Highway Plat No, 2642; Quit-claim Deed to USGEN New England, Inc.

for a 7,768 square foot parcel identified as Plat No. 2643 for an access road; and a Settlement Agreement between the Department and USGEN, New England, Inc. that spells out this transaction. USGEN, New England, Inc. had filed a suit for assessment of damages over a prior condemnation of Plat 2594. The Settlement Agreement effectively eliminates any potential claim for damages arising out of the condemnation of the property acquired from USGEN New England, Inc., by virtue of Plat 2594. Discussion ensued regarding the value of the property. Ms. Allaire Johnson raised questions regarding the law suit and discussion took place.

The Chair, Mr. Williams left the meeting at 10:55 A.M. and turned the Chair over to Mr. Griffith.

Mr. Mitchell stated that USGEN, New England, Inc. is in bankruptcy in Maryland and this Agreement was subject to Bankruptcy Court approval, which has previously been given. A copy of the Court Order is attached to the Settlement Agreement.

A motion was made by Mr. Barry and seconded by Ms. Allaire Johnson to approve the request of the Department for approval and signatures on Deeds for Plats 2642 and 2643 and Settlement Agreement in conjunction with Condemnation Plat 2594, Providence, with USGen New England, Inc. for the 195 Relocation Project.

Passed Unanimously

ITEM H – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval and signatures on License Agreement with Banner Oldsmobile Buick GMC Truck, Inc. for use of land on Tower Hill Road, South Kingstown.

Banner Oldsmobile Buick GMC Truck, Inc. was seeking to use 7,350 square feet of Department property located on Tower Hill Road, South Kingstown. Banner

Oldsmobile would like to use this property, which is adjacent to its dealership, to park vehicles in order to showcase them and increase their visibility. The rent of \$365.00 per month was based on in-house license appraisal. The license was to be for a three year period.

Mr. Barry led discussion regarding the value of the rent being charged and if it was a fair amount. The Department stated that the dealership had been encroaching on the property and was advised to leave. It is believed that they had left and returned to use the property. A lengthy discussion place. A picture of the encroachment was displayed and discussion regarding the license agreement took place.

The Chair, Mr. Williams returned and resumed the Chair at 11:10 A.M.

Mr. Griffith stated that the point was raised that they have been encroaching and violated the orders to remove the cars, on at least one occasion since they were detected. He went on to say he did not know what provisions there are for fines or some kind of assessments for that, but if for no other reason, to get the word out that you cannot encroach on State property. Mr. Carcieri stated that he is not certain how long the encroachment took place, but as a remedy, suggested a one - month's rent be imposed for payment of the encroachment. The Chair agreed with Mr. Griffith that the Department look to see what fines could be assessed, and also, stated he did not think that the amount of rent was appropriate.

The Chair, Mr. Williams left the meeting at 11:15 A.M. and turned the Chair over to Mr. Griffith.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to table the matter and send the matter back to the Department for reconsideration.

Passed Unanimously

ITEM I – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval and signatures on Sublease Agreement with T Mobile USA, Inc., d/b/a Omnipoint Holdings, Inc. and Sprint Spectrum LP allowing Sprint to install equipment to an existing monopole located at Site 4PR-0178-G Snake Den, Greenville Avenue, Johnston.

This Sublease Agreement with T Mobile USA, Inc., d/b/a Omnipoint Holdings, Inc. and Sprint Spectrum LP allows Sprint to install (3) antennas contained inside the existing monopole, Site 4PR-0178-G Snake Den, located at 671 Greenville Avenue in Johnston. The sublease guarantees the State \$9,900.00 per year, which is 50% of the annual rent payments.

A Motion was made by Mr. Barry and seconded by Ms. Allaire Johnson to approve the request of the Department for approval and signatures on Sublease Agreement with T Mobile USA, Inc., d/b/a Omnipoint Holdings, Inc. and Sprint Spectrum LP allowing Sprint to install equipment to an existing monopole located at Site 4PR-0178-G Snake Den, Greenville Avenue, Johnston.

Passed Unanimously

ITEM J – DEPARTMENT OF TRANSPORTATION – A request was made by the Department for approval of Temporary Easement Agreement with Olney Towers Limited over land in the Olneyville Section of Providence for the RI Freight Rail Improvement Project.

This is an emergency situation. The Department is working on the Freight Rail Improvement Project in the Olneyville section of Providence. While working, contractors placed sheeting too close to the wall at Olneyville Towers and as a result, there has been some movement on the wall and it is now necessary that the Department go in and

brace the wall, while doing the work, and later on go back and repair the wall or if need be, replace the wall. It is necessary that the Department secure approximately 15,230 square feet of land within the parking area of the Olneyville Towers Housing Complex. The Department requires a Temporary Easement on private property for a two year period to do the work. Also, there will be some asphalt that needs to be fixed in the parking area. Total estimated cost for the easement is \$29,075.00, of which 80% is Federally funded. This amount is based on a unit value of \$10.00 per square foot with a 10% return each year.

Mr. Williams returned to the meeting at 11:20 A.M. and resumed the Chair from Mr. Griffith.

A map of the area was displayed. A discussion took place as to who had placed the sheeting against the wall and how the damage occurred. A discussion took place about who should be taking the responsibility for this damage. The Chair, Mr. Williams wanted to determine whether this was something the contractor did based on the specifications of the job, or the contractor did and then the Department was monitoring it and found it. He went on to say, that if this is something that the contractor did, the Department should be going after the contractor. The Chair stated that he would like to know where the fault lies. Mr. Griffith stated that he would like to know, if the site engineer or the Department allowed this to happen on his or her watch, then the Department should appropriately take responsibility for it, but if it occurred because of an act by the contractor, then the contractor needs to take responsibility. Ms. Allaire Johnson added that generally the contracts have provisions for indemnification. It is not clear what the Department is doing about the indemnification. Mr. Griffith moved to table the matter and send it back to the Department for clarification on that point. Mr.

Barry seconded the Motion, and Ms. Maureen McMahon stated that unfortunately, this is an emergency situation. Additional discussion took place. A request had been made for this easement in the amount of \$29,075.00. Ms. McMahon stated that the property owner should be paid because it was no fault of theirs and the Department needs to go onto private property legally to go ahead and brace the wall and then part of it was also to go back and permanently replace the wall. Ms. McMahon stated she could get something in writing for the next meeting explaining where the Department is going from this point. The Chair commented, no matter what happens, whether the State is seeking reimbursement from the contractor or not, the Department needs to do this work immediately and set up the Temporary Easement, is that correct? The Department stated yes. Mr. Griffith inquired of Ms. Allaire Johnson, if done as requested, does this in any way jeopardize the State's position on indemnification. She responded that the Department could seek indemnification after the fact.

The Chair, Mr. Williams asked that the Department come back at the next meeting and have someone from the Department's Construction Management Team to come and explain what happened. He went on to say, if it is the Department's fault, we will take responsibility for it, but if it was something where it was the fault of the contractor, the Department should be going after the contractor. Ms. McMahon stated she will supply the rest of the information at the next meeting. Discussion took place about the length of the easement. After much discussion, the Chair suggested that the Committee approve the Temporary Easement, but would like the Department to return at the next meeting with someone who is on the construction team to answer the question on responsibility for the damage.

A Motion was made by Mr. Griffith and seconded by Mr. Barry to approve the request of the Department for approval of Temporary Easement Agreement with Olney Towers Limited over land in the Olneyville Section of Providence for the RI Freight Rail Improvement Project. Inherent in the Motion is that the Department will return at the next meeting with a representative of the construction team who can outline responsibility.

Passed Unanimously

All matters presented to the Committee with the exception of Item “H”, which was tabled, were approved by all present.

There being no further business to come before the Committee, the meeting adjourned at 11:35 A.M.

Anne L. Lanni, Executive Secretary